11-836

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 250.

THE CHICAGO AND ALTON RAILROAD COMPANY, APPELLANT,

vs.

SAMUEL H. TURRILL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED OCTOBER 9, 1877.

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INDEX.

	Original.	Print.
Mandate from Supreme Court United States	2	1
Decree	5	2
Appeal bond	7	3
Clerk's certificate	10	4

1 Pleas in the circuit court of the United States for the northern district of Illinois, held at the United States court rooms in the city of Chicago, in the district aforesaid, before the judges thereof, on Monday the ninth day of July, in the year of our Lord one thousand eight hundred and seventy-seven and of our Independence the one hundred and second year.

WILLIAM H. BRADLEY, *Clerk.*

In chancery.

SAMUEL H. TURRILL
vs.
THE CHICAGO AND ALTON RAILROAD COMPANY.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that on the ninth day of July, A. D. 1877, came the said complainant by his solicitor, and filed in the office of the clerk of the circuit court of the United States for the northern district of Illinois, at Chicago, in the district aforesaid, the mandate of the Supreme Court of the United States, in said entitled cause, which said mandate is in the words and figures following, to wit:

2 *Mandate of the Supreme Court.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the circuit court of the United States for the northern district of Illinois, greeting: [SEAL.]

Whereas lately in the circuit court of the United States for the northern district of Illinois, before you or some of you, in a cause between Samuel H. Turrill, complainant, and the Chicago and Alton Railroad Company and T. B. Blackstone, defendant, wherein the decree of the said circuit court entered in said cause on the 16th day of July, A. D. 1874, is in the following words, viz:

"And now at this day the court being sufficiently advised upon the exceptions heretofore filed on the part of the complainant, as well as of the defendants, sustains all exceptions of the defendants to the master's report which object to the amount of profits and the measure hereof made by the defendants by the use of the complainant's machine; and also sustains all the exceptions of the defendant to the master's report which object to the proportion allowed by the master of cut rails out of the number of mended rails; and also sustains all exceptions of the defendants which object to the allowance by the
3 master of profits for the use of the complainant's machine by the defendants before the complainant had title to the patent or any part or interest therein; and as to all other exceptions of the defendants to the master's report the court overrules the same, and the court overrules the exceptions of the complainant to the master's report.

"And the court being of opinion that the case should not be again referred back to the master, but that the court should find the amount of profits which the defendants have respectively made by the use of the complainant's machine, doth find the same to be the sum of thirty-six thousand two hundred and twenty-six dollars and thirty-eight cents.

"It is thereupon ordered and decreed that the said defendant, the

Chicago and Alton Railroad Company, pay to the said complainant the sum of thirty-six thousand two hundred and twenty-six dollars and thirty-eight cents, so as aforesaid found, within thirty days from the date of this decree, and in default thereof that execution issue therefor.

"And it is further ordered that said Chicago and Alton Railroad Company pay all the costs to be taxed herein.

"And it is further ordered that said Chicago and Alton Rail-
4 road Company, its servants and agents, be perpetually enjoined and restrained from making or using any machine for repairing railroad-bars embracing the improvement or any substantial part thereof, for which letters patent were issued to Joseph D. Cawood; and it is further ordered that this suit be dismissed as against defendant, T. B. Blackstone," as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States by virtue of an appeal taken by the Chicago and Alton Railroad Company, agreeably to the act of Congress in such case made and provided, fully and at large appears.

And whereas in the present term of October, in the year of our Lord one thousand eight hundred and seventy-six, the said cause came on to be heard before the said Supreme Court on the said transcript of record, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged, and decreed by this court that the decree of the said circuit court in this cause be, and the same is hereby, affirmed with costs and interest until paid, at the same rate per annum that similar decrees bear in the courts of the State of Illinois; and that the said complainant, Samuel H. Turrill, recover against the said defendant three hundred and forty-nine dollars and thirty-two cents for his
5 costs herein expended and have execution therefor.

23d April, 1877.

You therefore are hereby commanded that such execution and proceedings be had in said cause as according to right and justice and the laws of the United States ought to be had, the said appeal notwithstanding.

Witness the honorable Morrison R. Waite, Chief Justice of said Supreme Court, the tenth day of May, in the year of our Lord one thousand eight hundred and seventy-seven.

Costs of complainant: Clerk, $329.32; attorney, 20.00—349.32. Taxed by—

D. W. MIDDLETON,
Clerk of the Supreme Court of the United States.

(Endorsed:) Filed July 9, 1877. Wm. H. Bradley, clerk.

And on the same day, to wit, the 9th day of July, A. D. 1877, in the record of the proceedings of said court in said entitled cause before the Hon. Thomas Drummond, judge, is the following entry, to wit:

In chancery.

SAMUEL H. TURRILL
vs.
THE CHICAGO AND ALTON RAILROAD COMPANY.

6 The mandate having been filed showing that the decree in this cause has been affirmed in the Supreme Court of the United

States, it is ordered that the complainant have execution thereon in conformity with the usage and practice of this court, together with the costs in this court and the Supreme Court; the court being of opinion that under the law of this State and under the mandate of the Supreme Court in this case the complainant is entitled to interest on this decree from the date thereof.

The defendant, excepting to the opinion of the court, prays an appeal from the decree last aforesaid, which is allowed upon defendant filing bond of $70,000 to be approved by the court.

7 Afterwards, to wit, on the 16th day of July, A. D. 1876, said defendant filed in said clerk's office its appeal bond in said entitled cause, which said bond is in the words and figures following, to wit:

Appeal bond.

Know all men by these presents that we, the Chicago and Alton Railroad Company and Timothy B. Blackstone, George Stuart, John Crerar, and John B. Drake, of the city of Chicago, in the county of Cook and State of Illinois, are held and firmly bound unto Samuel H. Turrill in the full and just sum of seventy thousand dollars ($70,000), to be paid to the said Samuel H. Turrill, his certain attorney, executors, administrators, or assigns, to which payment well and truly to be made we bind ourselves, our successors, heirs, executors, and administrators jointly and severally by these presents.

In witness whereof the said Chicago and Alton Railroad Company has caused these presents to be signed by its president, and its corporate seal to be hereto affixed, and the said Timothy B. Blackstone, George Straut, John Crerar, and John B. Drake have hereto set their hands and seals this 9th day of July, A. D. 1877.

8 Whereas at a term of the United States circuit court for the northern district of Illinois in a suit pending in said court on the chancery side thereof, between the said Samuel H. Turrill, complainant, and the said Chicago and Alton Railroad Company and T. B. Blackstone, defendants, on the 16th day of July, 1874, a decree was rendered against the said Chicago and Alton Railroad Company for the sum of thirty-six thousand two hundred and twenty-six dollars and thirty-eight cents with costs, which decree was afterwards affirmed on appeal by the Supreme Court of the United States, and the mandate issued from said Supreme Court to said circuit court to execute said decree;

And whereas the said circuit court has this day entered an order or decree in said cause that the complainant have execution for said sum above mentioned with costs and interest thereon from the date of said first decree;

And whereas the above bounden The Chicago and Alton Railway Company has taken an appeal to the Supreme Court of the United States to reverse said last mentioned decree of said circuit court:

Now, therefore, the condition of this obligation is such that if the above-named The Chicago and Alton Railroad Company shall prosecute its said appeal to effect and answer all damages and costs, if it shall

fail to make its appeal good then this obligation shall be void,
9 otherwise to remain in full force and virtue.

[SEAL.] THE CHICAGO AND ALTON R. R. CO.,
By T. B. BLACKSTONE, *Pres't.*
T. B. BLACKSTONE. [SEAL.]
GEO. STRAUT. [SEAL.]
JOHN CRERAR. [SEAL.]
JNO. B. DRAKE. [SEAL.]

Attest:

W. M. LARRABEE,
Secretary.

Approved.

THOMAS DRUMMOND.

(Endorsed:) Filed July 16th, 1877. Wm. H. Bradley, clerk.

10 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the above and foregoing to be a true, correct, and complete transcript of all of the record and proceedings had in said court in the cause wherein Samuel H. Turrill is the complainant and The Chicago and Alton Railroad Company is the defendant, from and including the filing of the mandate of the Supreme Court of the United States and all proceedings subsequent thereto, as appears from the files and records of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office, in Chicago, in said district, this 18th day of September, A. D. 1877, and of our Independence, the 102d year.

[SEAL.] WM. H. BRADLEY,
Clerk.

(Indorsement on cover:) No. 250. The Chicago and Alton Railroad Company, appellant, vs. Samuel H. Turrill. N. Illinois, C. C. U. S. Filed 9th October, 1877.